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# FOREIGN RELATIONS AUTHORIZATION ACT FISCAL YEARS 1984 AND 1985

## R E P O R T

OF THE

### COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ON

S. 1342

TO AUTHORIZE APPROPRIATIONS FOR THE DEPARTMENT OF  
STATE, THE UNITED STATES INFORMATION AGENCY, THE  
BOARD FOR INTERNATIONAL BROADCASTING, THE NATIONAL  
ENDOWMENT FOR DEMOCRACY AND THE ASIA FOUNDATION  
FOR FISCAL YEARS 1984 AND 1985



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the tragic plight of these people. This section creates a fund for that purpose.

#### TITLE IV—NATIONAL ENDOWMENT FOR DEMOCRACY

##### SECTION 401. SHORT TITLE

This section provides a short title of "National Endowment for Democracy Act" for the provisions of this bill. This legislation is a response to the felt need to increase the U.S. public diplomacy effort overseas in a manner which involves U.S. private sector initiatives to strengthen democratic values and institutions abroad.

Over the past 40 years, the United States has been committed to the goals of democratic institution-building abroad. During this same period, the Congress, under both Democratic and Republican leadership, has supported and helped to shape the national consensus in favor of such initiatives. From the earliest days of the Marshall plan, "Point 4" economic assistance, the advent of international broadcasting as an element of public diplomacy, and government-supported exchange programs such as those authorized by the Fulbright-Hays Act, several themes have recurred.

Such initiatives reflected concretely the underlying national consensus on broad U.S. foreign policy goals. Second, the new program did not threaten to undermine either by accident or design the funding and operations of other existing popularly supported programs. Third, the new programs enjoyed genuine bipartisan support across a wide spectrum of American leadership opinion. The programs funded by the National Endowment for Democracy are intended to reflect these criteria.

This new proposal is the result of a 6-month nongovernmental research study by the two major U.S. political parties, labor, and business involving Democrats, Republicans, liberals, moderates and conservatives to design new, private sector approaches which will foster and strengthen democratic values and institutions abroad. Named the Democracy Program, this study was often confused with the Reagan Administration's \$65 million proposal for a "Project Democracy," discussed in Title II above, whose broad purposes are to enhance and increase existing public diplomacy programs of the U.S. Government, and to develop new governmental initiatives, promote democracy and democratic institution-building overseas.

Private sector efforts in the past have been fruitful, except for the AFL-CIO's regional institutes and a range of programs sponsored by leading foundations and private voluntary organizations. Indeed, for several decades, the AFL-CIO has been running regional institutes in Latin America, Africa and Asia, often working under difficult local circumstances in nondemocratic societies to support democratic trade unions and train their organizers. Since World War II, the American labor movement has also been active in efforts to support democratic workers' movements, first in Western Europe when threatened by Communist disruptions in the bleak aftermath of the war, and most recently in Eastern Europe with its assistance to Poland's Solidarity movement.

Nonetheless, there has never been a comprehensive structure for a nongovernmental effort through which the resources of America's private sector constituencies, the separate and autonomous programs of energetic institutions, could be mobilized effectively. Those involved in the Democracy Program recognized from the beginning that to be effective, such a structure should have the involvement of both national political parties, organized labor and the business community, among other private institutions.

Nor was the Democracy Program first to recognize the problem or pioneer in creating solutions. During the 1950's, President Eisenhower, Senators J. William Fulbright and Hubert H. Humphrey, and leaders of the American labor movement, such as George Meany and Walter Reuther, proposed and developed mechanisms to assist democratic institutional development abroad openly and through the private sector.

A decade later, during the months that followed the public revelation in 1967 of the CIA's covert funding of overseas activities by some American private voluntary organizations, the Johnson Administration concluded after careful study that the U.S. Government should totally halt all secret financial subsidies to such nongovernmental groups. At the same time, Johnson officials urged the creation of a new, quasi-autonomous nongovernmental organization to provide public funds openly for the overseas activities of American private sector groups engaged in worthwhile international programs. Anticipating the Johnson proposals, a number of House members, led by Hon. Dante B. Fascell, introduced in April 1967 a bill to create an Institute of International Affairs. Unfortunately, concern over the problem of past covert funding overrode sufficient interest in constructive future solutions beyond terminating all CIA involvement.

Events and institutions in Europe triggered new interest in the possibility of a nongovernmental democracy program during the late 1970's. Americans became committed to participating in the process of monitoring the Helsinki Accords, especially in human rights ("Basket Three") provisions as these affected Soviet bloc behavior. This concern led not only to the creation of the bipartisan Commission on Security and Cooperation in Europe but also to legislation introduced in 1978 to establish an "Institute on Human Rights and Freedoms" (among other bills introduced on similar themes).

Independently, during this same period a number of American political leaders became intrigued by the activities of the German "stiftungen"—the political foundations which now collectively receive over \$150 million annually from the German Bundestag. These four publicly funded foundations in the Federal Republic of Germany are each allied to a major political party. Today, these foundations sponsor efforts in over five dozen countries to encourage the institutional development vital to the emergence of pluralist cultures. The work undertaken by the Konrad Adenauer (CDU), Friedrich Ebert (SPD), Friedrich Naumann (FDU), and Hans Seidel (CSU) foundations has been so effective that the idea of party foundations has spread to countries as diverse as Spain (which recently created its own political foundations after witnessing the helpful

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Similarly, the American labor movement was taking stock of the effects of United States withdrawal from the International Labor Organization (ILO) in 1977. AFL-CIO leaders renewed their longstanding interest in the possibility of expanding the Federation's international work. They explored the possibility of a legislatively-created labor foundation that could disburse public funds to its existing institutes and other organizations doing labor-supported international work.

President Reagan devoted space to the research study in his June 1982 address to the British Parliament. His comments attracted favorable reactions. Such reservations as emerged centered upon three issues: Concern lest the programs proposed be other than long-range and bipartisan in scope; anxiety that the Administration would attempt to exploit the research study for immediate propaganda purposes in its broader public diplomacy initiatives; and opposition to a dominant political tilt in defining the context and recipients of democratic political assistance. The subsequent recommendations of the Democracy Program study put these fears to rest.

Subsequently, the report of the Democracy Program entitled "The Commitment to Democracy: A Bipartisan Approach" was issued. Its recommendations are reflected in this title. Among the functions envisioned for the Endowment are the following: (a) to perform general oversight functions relating to its activities to

insure that the charter's purposes are being met; (b) to evaluate grant proposals from the private sector and to support the collaborative efforts of private sector grantees to design programs which combine their experience and institutional perspectives; (c) to provide scholarships and fellowships which carry out the purposes of the Endowment and support programs designed to teach democratic concepts; (d) to serve as the "umbrella" organization through which the four party, labor and business instrumentalities, enumerated in section 411, may receive funding (in addition to those amounts already earmarked) and within which each one can evolve independently but in a cooperative and collaborative manner; (e) to serve as an intermediary between private sector groups and as a clearinghouse for inquiries and proposals in order to bring groups together and to create new opportunities for democratic assistance.

#### SECTION 402. ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

Section 402(a) authorizes the establishment of a private, nonprofit corporation called the National Endowment for Democracy.

Section 402(b) provides that the Endowment will not be considered an agency or establishment of the U.S. Government.

Section 402(c) provides that the Endowment will be subject to the provisions of this title. In addition, to the extent consistent with this title, the Endowment will also be subject to the District of Columbia Nonprofit Corporation Act.

Section 402(d) provides that the principal offices of the Endowment shall be located in the District of Columbia.

#### SECTION 403. PURPOSES OF THE ENDOWMENT

Section 403(a) outlines the purposes of the Endowment, thus defining the parameters of its activities.

Section 403(a)(1) describes the broad purpose of the Endowment, which is to use private sector initiatives to encourage free and democratic institutions worldwide. This specifically includes activities which promote individual rights and freedoms.

Section 403(a)(2) outlines one of the major methods which will be used by private sector groups carrying out the purposes of the Endowment. The section contemplates the use of exchanges between U.S. private sector groups and democratic groups abroad in order to carry out the purposes of the Endowment. Among the private sector groups which will be involved in such exchanges are the Democratic and Republican parties and U.S. labor and business groups.

Section 403(a)(3) provides for the promotion of U.S. nongovernmental participation generally in democratic training programs and democratic institution-building abroad. Particular mention is made of the major U.S. political parties, labor and business, as well as other private sector groups.

Section 403(a)(4) enunciates the purpose of strengthening democratic electoral processes abroad in cooperation with democratic groups in given country. This arrangement would involve agreement between the relevant groups in the United States and in the host country.

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Section 403(a)(5) states as a purpose of the Endowment support for the participation of the major political parties, labor, business and other U.S. private sector groups to foster cooperation with groups abroad dedicated to the cultural values, institutions and organizations of democratic pluralism.

Section 403(a)(6) states that the activities of the Endowment in encouraging the establishment and growth of democratic development are to be consistent with broad U.S. national interests and with the requirements of democratic groups abroad assisted by programs funded by the Endowment.

Section 403(b)(1) states specifically that the Endowment will provide funds for programs, but will not actually run programs itself.

Section 403(b)(2) states that funding will only be provided for programs meeting the purposes of the Endowment.

Section 403(b)(3) provides that the Endowment and its grantees will be subject to the oversight procedures of the Congress.

#### SECTION 404. INCORPORATION OF THE ENDOWMENT

Section 404(a) sets forth the 15 initial incorporators of the Endowment. These individuals will take the steps necessary to incorporate the National Endowment for Democracy under the District of Columbia Nonprofit Corporation Act. This includes drafting of the articles of incorporation and the bylaws, which will reflect the provisions of this title. The listed incorporators represent a cross-section of Americans active in business, labor, the major political parties and with expertise in foreign policy law and the like. Section 404(b) provides that the Honorable Dante B. Fascell shall serve as Chairman of the incorporators and interim Chairman of the Endowment until such time as a Chairman is elected under bylaws of the Endowment. It is expected that, during the pendency of the interim chairman, no funds will be disbursed by the Endowment.

#### SECTION 405. BOARD OF DIRECTORS

Section 405(a) provides that the Endowment will be governed by a 15-member Board of Directors. Following the initial incorporation period, when the Board will consist of those individuals set forth in section 404 above, the Board will be self-perpetuating and elected in accordance with the Endowment's bylaws.

Section 405(b) provides that vacancies in the Board's membership shall not affect its powers. This provision reflects common practice.

Section 405(c) states that members of the Board shall not be deemed to be officers or employees of the United States. The section provides for per diem for the Board members while performing their duties.

#### SECTION 406. OFFICERS OF THE ENDOWMENT

Section 406(a) provides that the chief executive officer of the Endowment shall be a President appointed by the Board. The President will carry out the daily operations of the Board, and will report to the Board under appropriate guidelines and procedures.

Section 406(b) provides for staff of Endowment. The number and type will be determined by the Board.



Section 406(c) provides that the terms of officers of the Endowment will be set by the Board.

Section 406(d) prohibits officers of the Endowment from receiving compensation from any source other than the Endowment during the period of their employment by the Endowment.

#### SECTION 407. NONPROFIT NATURE OF THE ENDOWMENT

Section 407(a) precludes the Endowment from issuing stock or paying dividends. This reflects the nonprofit character of the Endowment.

Section 407(b) prohibits any Board member, officer or employee of the Endowment from gaining any personal benefit from the corporate assets of the Endowment, other than from duly authorized compensation.

#### SECTION 408. RECORDS AND AUDIT OF THE ENDOWMENT AND THE RECIPIENTS OF ASSISTANCE

Section 408 provides for normal auditing procedures for the Endowment and its grantees.

Section 408(a)(1) provides for regular annual audits of the Endowment by independent auditors. The section requires that all appropriate materials be made available for the audit.

Section 408(a)(2) requires that the independent audits are to be included in the annual report required by section 409 below. It further requires that the audit report set forth the scope of the audit and any other statements necessary to present a complete audit picture.

Section 408(b)(1) permits the financial transactions of the Endowment to be audited annually by the General Accounting Office. The section also provides for appropriate access by representatives of the General Accounting Office to materials necessary to the audits.

Section 408(b)(2) requires that the Comptroller General's audit report be sent to the Congress. It may contain such comments and information as the Comptroller General deems necessary to explain the audit. In addition, the report is required to discuss any transaction which, in the opinion of the Comptroller General, has been conducted without legal authority. The section also provides that copies of the audit report be sent to the President and to the Endowment when the report is submitted to the Congress.

Section 408(c)(1) provides that grantees of the Endowment must keep records appropriate to the conduct of an audit.

Section 408(c)(2) provides access to the Endowment or its duly authorized representatives (such as an independent auditor) for the purpose of auditing the records of the grantees. The same access is authorized for the Comptroller General of the United States or his or her duly authorized representatives.

#### SECTION 409. REPORT TO THE CONGRESS

Section 409 provides for an annual report by the Endowment to the Congress. The report shall be submitted by December 31 of each year and shall include a comprehensive and detailed report of the Endowment's activities, operations, finances and accomplish-

ments, together with any recommendations the Endowment deems appropriate. The section further requires the Board members and officers of the Endowment to be available to testify before appropriate congressional committees.

#### SECTION 410. FUNDING FOR THE ENDOWMENT

Section 410 provides the funding mechanism for the Endowment. Subsection (a) provides authority for the Director of the U.S. Information Agency to make grants to the Endowment from the "Salaries and Expenses" account of the agency. Subsection (b) permits the Endowment to use such funds for the purposes of the Endowment without regard to any limitation or guidelines normally imposed by USIA for its grant-making activities.

#### SECTION 411. ALLOCATION OF FUNDS

Section 411 earmarks specific amounts of money in fiscal years 1984 and 1985 for certain grantees of the Endowment. These include not less than \$5 million for each of the 2 fiscal years for the National Democratic Institute for International Affairs; not less than \$5 million for each of the 2 fiscal years for the National Republican Institute for International Affairs; not less than \$13,800,000 for the Free Trade Union Institute; and not less than \$2,500,000 for support of the private enterprise development programs of the National Chamber Foundation.

#### TITLE V—FOREIGN MISSIONS AMENDMENTS ACT OF 1983

##### SECTION 501

This title may be cited as the "Foreign Missions Amendments Act of 1983."

##### SECTION 502

The Diplomatic Relations Act of 1978 (Public Law 95-393) requires all foreign missions, members of missions and their families and officials of the United Nations entitled to diplomatic immunity to carry liability insurance against risks arising from their operation of motor vehicles, vessels or aircraft in the United States.

Although there has been substantial compliance with the requirements of the Act by the diplomatic community, there have been instances where diplomats have allowed their insurance policies to lapse.

The purpose of this title, introduced as an amendment by Senator Sarbanes, is to assure that all U.S. citizens who are injured by the negligence of an individual with diplomatic immunity, will have an opportunity to recover compensation for their damages.

This section transfers the responsibility for implementing the Act from the Protocol Office to the Office of Foreign Missions. Liability insurance is a reciprocity issue. All U.S. diplomats are required to carry such insurance. All foreign diplomats in the United States should do the same. It is the Committee's view that the Office of Foreign Missions is a more appropriate place to carry out the responsibilities of the Diplomatic Relations Act.